

House File 2574

HOUSE FILE _____
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 727)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the technical administration of the tax and
2 related laws by the department of revenue, including
3 administration of state individual income, corporate income,
4 insurance premiums, sales, use, property, motor fuel, special
5 fuel, cigarette, and tobacco taxes, and making penalties
6 applicable and including effective date and retroactive
7 applicability date provisions.
8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
9 TLSB 6925HV 80
10 sc/pj/5

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1 1 Section 1. Section 422.9, subsection 1, Code Supplement
1 2 2003, is amended to read as follows:
1 3 1. An optional standard deduction, after deduction of
1 4 federal income tax, equal to one thousand two hundred thirty
1 5 dollars for a married person who files separately or a single
1 6 person or equal to three thousand thirty dollars for a husband
1 7 and wife who file a joint return, a surviving spouse, or an
1 8 unmarried head of household. The optional standard deduction
1 9 shall not exceed the amount remaining after deduction of the
1 10 federal income tax. The amount of federal income tax deducted
1 11 shall be computed as provided in subsection 2, paragraph "b".
1 12 Sec. 2. Section 422.9, subsection 2, paragraph b, Code
1 13 Supplement 2003, is amended to read as follows:
1 14 b. Add the amount of federal income taxes paid or accrued
1 15 as the case may be, during the tax year, ~~adjusted by and~~
1 16 subtract any federal income tax refunds received during the
1 17 tax year. Provided, however, that where ~~Where~~ married
1 18 persons, who have filed a joint federal income tax return,
1 19 file separately, such total shall be divided between them
1 20 according to the portion thereof of the total paid or accrued,
1 21 as the case may be, by each. Federal income taxes paid for a
1 22 tax year in which an Iowa return was not required to be filed
1 23 shall not be added, and federal income tax refunds received
1 24 from a tax year in which an Iowa return was not required to be
1 25 filed shall not be subtracted.
1 26 Sec. 3. Section 422.35, Code Supplement 2003, is amended
1 27 by adding the following new subsection:
1 28 NEW SUBSECTION. 20. Subtract the amount of foreign
1 29 dividend income, including Subpart F income as defined in
1 30 section 952 of the Internal Revenue Code, based upon the
1 31 percentage of ownership as set forth in section 243 of the
1 32 Internal Revenue Code.
1 33 Sec. 4. Section 422A.1, unnumbered paragraph 3, Code
1 34 Supplement 2003, is amended to read as follows:
1 35 A local hotel and motel tax shall be imposed on January 1-
2 1 ~~April 1, or July 1, or October 1,~~ following the notification
2 2 of the director of revenue. Once imposed, the tax shall
2 3 remain in effect at the rate imposed for a minimum of one
2 4 year. A local hotel and motel tax shall terminate only on
2 5 ~~March 31, June 30, September 30,~~ or December 31. At least
2 6 forty-five days prior to the tax being effective or prior to a
2 7 revision in the tax rate, or prior to the repeal of the tax, a
2 8 city or county shall provide notice by mail of such action to
2 9 the director of revenue.
2 10 Sec. 5. Section 422E.3A, subsection 3, paragraph a, Code
2 11 Supplement 2003, is amended to read as follows:
2 12 a. The director of revenue by ~~June 1 preceding~~ August 15
2 13 of each fiscal year shall compute the guaranteed school
2 14 infrastructure amount for each school district, each school
2 15 district's sales tax capacity per student for each county, and
2 16 the supplemental school infrastructure amount for the coming
2 17 fiscal year.

2 18 Sec. 6. Section 423.1, subsection 50, as enacted by 2003
2 19 Iowa Acts, First Extraordinary Session, chapter 2, section 94,
2 20 is amended to read as follows:

2 21 50. "Services" means all acts or services rendered,
2 22 furnished, or performed, other than services used in
2 23 processing of tangible personal property for use in retail
2 24 sales or services, for an employer, ~~as defined in section~~
2 25 ~~422.4, subsection 3 who pays the wages of an employee, for a~~
2 26 valuable consideration by any person engaged in any business
2 27 or occupation specifically enumerated in section 423.2. The
2 28 tax shall be due and collectible when the service is rendered,
2 29 furnished, or performed for the ultimate user of the service.

2 30 Sec. 7. Section 423.3, subsections 2 and 37, as enacted by
2 31 2003 Iowa Acts, First Extraordinary Session, chapter 2,
2 32 section 96, are amended to read as follows:

2 33 2. The sales price of sales for resale of tangible
2 34 personal property or taxable services, or for resale of
2 35 tangible personal property in connection with the furnishing
3 1 of taxable services except for sales, other than leases or
3 2 rentals, which are sales, of machinery, equipment,
3 3 attachments, and replacement parts specifically enumerated in
3 4 subsection 37 and used in the manner described in subsection
3 5 37.

3 6 37. The sales price of services on or connected with new
3 7 construction, reconstruction, alteration, expansion,
3 8 remodeling, or the services of a general building contractor,
3 9 architect, or engineer. The exemption in this subsection also
3 10 applies to the sales price on the lease or rental of self=
3 11 propelled building equipment, self-constructed cranes, pile
3 12 drivers, structural concrete forms, regular and motorized
3 13 scaffolding, generators, or attachments customarily drawn or
3 14 attached to self-propelled building equipment, self=
3 15 constructed cranes, pile drivers, structural concrete forms,
3 16 regular and motorized scaffolding, and generators, including
3 17 auxiliary attachments which improve the performance, safety,
3 18 operation, or efficiency of the equipment and replacement
3 19 parts and are directly and primarily used by contractors,
3 20 subcontractors, and builders for new construction,
3 21 reconstruction, alterations, expansion, or remodeling of real
3 22 property or structures.

3 23 Sec. 8. Section 423.3, as enacted by 2003 Iowa Acts, First
3 24 Extraordinary Session, chapter 2, section 96, is amended by
3 25 adding the following new subsection:

3 26 NEW SUBSECTION. 84. The sales price from the sale of
3 27 building materials, supplies, goods, wares, or merchandise
3 28 sold to a nonprofit Iowa affiliate of a nonprofit
3 29 international organization whose primary activity is the
3 30 promotion of the construction, remodeling, or rehabilitation
3 31 of one or two-family dwellings for use by low-income families
3 32 and where the building materials, supplies, goods, wares, or
3 33 merchandise are used in the construction, remodeling, or
3 34 rehabilitation of such dwellings.

3 35 Sec. 9. Section 423.4, subsection 1, as enacted by 2003
4 1 Iowa Acts, First Extraordinary Session, chapter 2, section 97,
4 2 is amended to read as follows:

4 3 1. A private nonprofit educational institution in this
4 4 state, nonprofit Iowa affiliate of a nonprofit international
4 5 organization whose primary activity is the promotion of the
4 6 construction, remodeling, or rehabilitation of one or two=
4 7 family dwellings for low-income families, nonprofit private
4 8 museum in this state, tax-certifying or tax-levying body or
4 9 governmental subdivision of the state, including the state
4 10 board of regents, state department of human services, state
4 11 department of transportation, a municipally owned solid waste
4 12 facility which sells all or part of its processed waste as
4 13 fuel to a municipally owned public utility, and all divisions,
4 14 boards, commissions, agencies, or instrumentalities of state,
4 15 federal, county, or municipal government which do not have
4 16 earnings going to the benefit of an equity investor or
4 17 stockholder, may make application to the department for the
4 18 refund of the sales or use tax upon the sales price of all
4 19 sales of goods, wares, or merchandise, or from services
4 20 furnished to a contractor, used in the fulfillment of a
4 21 written contract with the state of Iowa, any political
4 22 subdivision of the state, or a division, board, commission,
4 23 agency, or instrumentality of the state or a political
4 24 subdivision, a private nonprofit educational institution in
4 25 this state, such nonprofit Iowa affiliate, or a nonprofit
4 26 private museum in this state if the property becomes an
4 27 integral part of the project under contract and at the
4 28 completion of the project becomes public property, is devoted

4 29 to educational uses, becomes part of a low-income one or two=
4 30 family dwelling in the state, or becomes a nonprofit private
4 31 museum; except goods, wares, or merchandise, or services
4 32 furnished which are used in the performance of any contract in
4 33 connection with the operation of any municipal utility engaged
4 34 in selling gas, electricity, or heat to the general public or
4 35 in connection with the operation of a municipal pay television
5 1 system; and except goods, wares, and merchandise used in the
5 2 performance of a contract for a "project" under chapter 419 as
5 3 defined in that chapter other than goods, wares, or
5 4 merchandise used in the performance of a contract for a
5 5 "project" under chapter 419 for which a bond issue was
5 6 approved by a municipality prior to July 1, 1968, or for which
5 7 the goods, wares, or merchandise becomes an integral part of
5 8 the project under contract and at the completion of the
5 9 project becomes public property or is devoted to educational
5 10 uses.

5 11 a. Such contractor shall state under oath, on forms
5 12 provided by the department, the amount of such sales of goods,
5 13 wares, or merchandise, or services furnished and used in the
5 14 performance of such contract, and upon which sales or use tax
5 15 has been paid, and shall file such forms with the governmental
5 16 unit, private nonprofit educational institution, such
5 17 nonprofit Iowa affiliate, or nonprofit private museum which
5 18 has made any written contract for performance by the
5 19 contractor. The forms shall be filed by the contractor with
5 20 the governmental unit, educational institution, such nonprofit
5 21 Iowa affiliate, or nonprofit private museum before final
5 22 settlement is made.

5 23 b. Such governmental unit, educational institution,
5 24 nonprofit Iowa affiliate, or nonprofit private museum shall,
5 25 not more than one year after the final settlement has been
5 26 made, make application to the department for any refund of the
5 27 amount of the sales or use tax which shall have been paid upon
5 28 any goods, wares, or merchandise, or services furnished, the
5 29 application to be made in the manner and upon forms to be
5 30 provided by the department, and the department shall forthwith
5 31 audit the claim and, if approved, issue a warrant to the
5 32 governmental unit, educational institution, or nonprofit
5 33 private museum in the amount of the sales or use tax which has
5 34 been paid to the state of Iowa under the contract.

5 35 Refunds authorized under this subsection shall accrue
6 1 interest at the rate in effect under section 421.7 from the
6 2 first day of the second calendar month following the date the
6 3 refund claim is received by the department.

6 4 c. Any contractor who willfully makes a false report of
6 5 tax paid under the provisions of this subsection is guilty of
6 6 a simple misdemeanor and in addition shall be liable for the
6 7 payment of the tax and any applicable penalty and interest.

6 8 Sec. 10. Section 425.1, subsection 4, Code Supplement
6 9 2003, is amended to read as follows:

6 10 4. Annually the department of revenue shall ~~estimate the~~
~~6 11 credit not to exceed the actual levy on the first four~~
~~6 12 thousand eight hundred fifty dollars of actual value of each~~
~~6 13 eligible homestead, and shall~~ certify to the county auditor of
6 14 each county the credit and its amount in dollars. Each county
6 15 auditor shall then enter the credit against the tax levied on
6 16 each eligible homestead in each county payable during the
6 17 ensuing year, designating on the tax lists the credit as being
6 18 from the homestead credit fund, and credit shall then be given
6 19 to the several taxing districts in which eligible homesteads
6 20 are located in an amount equal to the credits allowed on the
6 21 taxes of the homesteads. The amount of credits shall be
6 22 apportioned by each county treasurer to the several taxing
6 23 districts as provided by law, in the same manner as though the
6 24 amount of the credit had been paid by the owners of the
6 25 homesteads. However, the several taxing districts shall not
6 26 draw the funds so credited until after the semiannual
6 27 allocations have been received by the county treasurer, as
6 28 provided in this chapter. Each county treasurer shall show on
6 29 each tax receipt the amount of credit received from the
6 30 homestead credit fund.

6 31 Sec. 11. Section 432.1, subsection 6, paragraph b,
6 32 unnumbered paragraph 1, Code Supplement 2003, is amended to
6 33 read as follows:

6 34 In addition to the prepayment amount in paragraph "a", each
6 35 life insurance company or association which is subject to tax
7 1 under subsection 1 of this section and each mutual health
7 2 service corporation which is subject to tax under section
7 3 432.2 shall remit on or before ~~June 30~~ August 15, on a
7 4 prepayment basis, an additional amount equal to the following

7 5 percent of the premium tax liability for the preceding
7 6 calendar year as follows:

7 7 Sec. 12. Section 432.1, subsection 6, paragraph c,
7 8 unnumbered paragraph 1, Code Supplement 2003, is amended to
7 9 read as follows:

7 10 In addition to the prepayment amount in paragraph "a", each
7 11 insurance company or association, other than a life insurance
7 12 company or association, which is subject to tax under
7 13 subsection 3 shall remit on or before ~~June 30~~ August 15, on a
7 14 prepayment basis, an additional amount equal to the following
7 15 percent of the premium tax liability for the preceding
7 16 calendar year as follows:

7 17 Sec. 13. Section 441.6, unnumbered paragraph 2, Code
7 18 Supplement 2003, is amended to read as follows:

7 19 Upon receipt of the report of the examining board, the
7 20 chairperson of the conference board shall by written notice
7 21 call a meeting of the conference board to appoint an assessor.
7 22 The meeting shall be held not later than seven days after the
7 23 receipt of the report of the examining board by the conference
7 24 board. ~~The physical condition, general reputation of the~~
~~7 25 applicants, and their fitness for the position as determined~~
~~7 26 by the examining board shall be taken into consideration in~~
~~7 27 making the appointment.~~ At the meeting, the conference board
7 28 shall appoint an assessor from the register of eligible
7 29 candidates. However, if a special examination has not been
7 30 conducted previously for the same vacancy, the conference
7 31 board may request the director of revenue to hold a special
7 32 examination pursuant to section 441.7. The chairperson of the
7 33 conference board shall give written notice to the director of
7 34 revenue of the appointment and its effective date within ten
7 35 days of the decision of the board.

8 1 Sec. 14. Section 441.8, unnumbered paragraph 1, Code
8 2 Supplement 2003, is amended to read as follows:

8 3 The term of office of an assessor appointed under this
8 4 chapter shall be for six years. Appointments for each
8 5 succeeding term shall be made in the same manner as the
8 6 original appointment except that not less than ninety days
8 7 before the expiration of the term of the assessor the
8 8 conference board shall hold a meeting to determine whether or
8 9 not it desires to reappoint the incumbent assessor to a new
8 10 term. If the decision is made not to reappoint the assessor,
8 11 the assessor shall be notified, in writing, of such decision
8 12 not less than ninety days prior to the expiration of the
8 13 assessor's term of office. Failure of the conference board to
8 14 provide timely notification of the decision not to reappoint
8 15 the assessor shall result in the assessor being reappointed.

8 16 Sec. 15. Section 441.8, unnumbered paragraphs 6 and 7,
8 17 Code Supplement 2003, are amended to read as follows:

8 18 Upon receiving credit equal to one hundred fifty hours of
8 19 classroom instruction during the assessor's current term of
8 20 office of which at least ninety of the one hundred fifty hours
8 21 are from courses requiring an examination upon conclusion of
8 22 the course, the director of revenue shall certify to the
8 23 assessor's conference board that the assessor is eligible to
8 24 be reappointed to the position. For persons appointed to
8 25 complete an unexpired term, the number of credits required to
8 26 be certified as eligible for reappointment shall be prorated
8 27 according to the amount of time remaining in the present term
8 28 of the assessor. If the person was an assessor in another
8 29 jurisdiction, the assessor may carry forward any credit hours
8 30 received in the previous position in excess of the number that
8 31 would be necessary to be considered current in that position.
8 32 Upon written request by the person seeking a waiver of the
8 33 continuing education requirements, the director may waive the
8 34 continuing education requirements if the director determines
8 35 good cause exists for the waiver.

9 1 Within each six-year period following the appointment of a
9 2 deputy assessor, the deputy assessor shall comply with this
9 3 section except that upon the successful completion of ninety
9 4 hours of classroom instruction of which at least sixty of the
9 5 ninety hours are from courses requiring an examination upon
9 6 conclusion of the course, the deputy assessor shall be
9 7 certified by the director of revenue as being eligible to
9 8 remain in the position. If a deputy assessor fails to comply
9 9 with this section, the deputy assessor shall be removed from
9 10 the position until successful completion of the required hours
9 11 of credit. If a deputy is appointed to the office of
9 12 assessor, the hours of credit obtained as deputy pursuant to
9 13 this section shall be credited to that individual as assessor
9 14 and for the individual to be reappointed at the expiration of
9 15 the term as assessor, that individual must obtain the credits

9 16 which are necessary to total the number of hours for
9 17 reappointment. Upon written request by the person seeking a
9 18 waiver of the continuing education requirements, the director
9 19 may waive the continuing education requirements if the
9 20 director determines good cause exists for the waiver.

9 21 Sec. 16. Section 441.21, subsection 2, Code Supplement
9 22 2003, is amended to read as follows:

9 23 2. In the event market value of the property being
9 24 assessed cannot be readily established in the foregoing
9 25 manner, then the assessor may determine the value of the
9 26 property using the other uniform and recognized appraisal
9 27 methods including its productive and earning capacity, if any,
9 28 industrial conditions, its cost, physical and functional
9 29 depreciation and obsolescence and replacement cost, and all
9 30 other factors which would assist in determining the fair and
9 31 reasonable market value of the property but the actual value
9 32 shall not be determined by use of only one such factor. The
9 33 following shall not be taken into consideration: Special
9 34 value or use value of the property to its present owner, and
9 35 the good will or value of a business which uses the property
10 1 as distinguished from the value of the property as property.
10 2 However, in assessing property that is rented or leased to
10 3 low-income individuals and families as authorized by section
10 4 42 of the Internal Revenue Code, as amended, and which section
10 5 ~~limits the amount that establishes annually the rent the~~
10 6 individual or family pays for the rental or lease of units in
10 7 the property, the assessor shall use the ~~productive and~~
10 8 ~~earning capacity from the actual rents received as a method of~~
10 9 ~~appraisal and shall take into account the extent to which that~~
10 10 ~~use and limitation reduces the market value of the property~~
10 11 ~~section 42 rents in conjunction with the income method of~~
10 12 ~~appraisal in compliance with the uniform standards of~~
10 13 ~~professional appraisal practice to arrive at the assessed~~
10 14 ~~value for the property. In no case shall the value of the~~
10 15 ~~property exceed the assessed value if it had been valued~~
10 16 ~~without consideration to the special procedures established~~
10 17 ~~herein for section 42 properties. In arriving at the actual~~
10 18 ~~value of the property, the impact of applicable rent~~
10 19 ~~restrictions, affordability requirements, or any other related~~
10 20 ~~restrictions prescribed by any federal or state programs shall~~
10 21 ~~be considered. The assessor shall not directly or indirectly~~
10 22 consider any tax credit equity or other subsidized financing
10 23 as income provided to the property in determining the assessed
10 24 value. An owner of section 42 property may elect to not have
10 25 such property assessed using the section 42 valuation process
10 26 by notifying the assessor in writing prior to March 1 of each
10 27 assessment year. Upon adoption of uniform rules by the
10 28 revenue department or succeeding authority covering
10 29 assessments and valuations of such properties, said valuation
10 30 on such properties shall be determined in accordance therewith
10 31 for assessment purposes to assure uniformity, but such rules
10 32 shall not be inconsistent with or change the foregoing means
10 33 of determining the actual, market, taxable and assessed
10 34 values.

10 35 Sec. 17. Section 441.38, subsection 2, Code 2003, is
11 1 amended to read as follows:

11 2 2. Notice of appeal shall be served as an original notice
11 3 on the chairperson, presiding officer, or clerk of the board
11 4 of review ~~after the filing of notice under subsection 1 with~~
11 5 ~~the clerk of district court within twenty days after its~~
11 6 ~~adjournment or May 31, whichever is later.~~

11 7 Sec. 18. NEW SECTION. 441.40A REIMBURSEMENT OF APPELLANT
11 8 COSTS.

11 9 Notwithstanding section 441.40, where the court determines
11 10 the appellant's property was originally assessed for more than
11 11 one hundred ten percent of its post=appeal value, the assessor
11 12 shall pay all costs of the appellant's appeal, including but
11 13 not limited to, reasonable attorney fees, appraisal reports,
11 14 expert testimony, court recorders, depositions, travel and
11 15 lodging, and any other reasonably related costs incurred by
11 16 the appellant.

11 17 Sec. 19. Section 452A.2, subsection 19, unnumbered
11 18 paragraph 2, Code Supplement 2003, is amended to read as
11 19 follows:

11 20 "Motor fuel" does not include special fuel, and does not
11 21 include liquefied gases which would not exist as liquids at a
11 22 temperature of sixty degrees Fahrenheit and a pressure of
11 23 fourteen and seven-tenths pounds per square inch absolute, or
11 24 naphthas and solvents unless the liquefied gases or naphthas
11 25 and solvents are used as a component in the manufacture,
11 26 compounding, or blending of a liquid within paragraph "b", in

11 27 which event the resulting product shall be deemed to be motor
11 28 fuel. "Motor fuel" does not include methanol unless blended
11 29 with other motor fuels for use in an aircraft or for
11 30 propelling motor vehicles.

11 31 Sec. 20. Section 452A.2, subsection 25, Code Supplement
11 32 2003, is amended to read as follows:

11 33 25. "Special fuel" means fuel oils and all combustible
11 34 gases and liquids suitable for the generation of power for
11 35 propulsion of motor vehicles or turbine-powered aircraft, and
12 1 includes any substance used for that purpose, except that it
12 2 does not include motor fuel. Kerosene shall not be considered
12 3 to be a special fuel, unless blended with other special fuels
12 4 for use in a motor vehicle with a diesel engine. Methanol
12 5 shall not be considered to be a special fuel, unless blended
12 6 with other special fuels for use in a motor vehicle with a
12 7 diesel engine.

12 8 Sec. 21. Section 452A.10, unnumbered paragraphs 1, 2, and
12 9 4, Code 2003, are amended to read as follows:

12 10 A motor fuel or special fuel supplier, restrictive
12 11 supplier, importer, exporter, blender, dealer, user, common
12 12 carrier, contract carrier, ~~or~~ terminal, or nonterminal storage
12 13 facility shall maintain, for a period of three years, records
12 14 of all transactions by which the supplier, restrictive
12 15 supplier, or importer withdraws from a terminal or nonterminal
12 16 storage facility within this state or imports into this state
12 17 motor fuel or undyed special fuel together with invoices,
12 18 bills of lading, and other pertinent records and papers as
12 19 required by the department.

12 20 If in the normal conduct of a supplier's, restrictive
12 21 supplier's, importer's, exporter's, blender's, dealer's,
12 22 user's, common carrier's, contract carrier's, ~~or~~ terminal's,
12 23 or nonterminal storage facility's business the records are
12 24 maintained and kept at an office outside this state, the
12 25 records shall be made available for audit and examination by
12 26 the department at the office outside this state, but the audit
12 27 and examination shall be without expense to this state.

12 28 The department, after an audit and examination of records
12 29 required to be maintained under this section, may authorize
12 30 their disposal upon the written request of the supplier,
12 31 restrictive supplier, importer, exporter, blender, dealer,
12 32 user, carrier, terminal, nonterminal storage facility, or
12 33 distributor.

12 34 Sec. 22. Section 452A.62, subsection 1, paragraph a, Code
12 35 Supplement 2003, is amended to read as follows:

13 1 a. A distributor, supplier, restrictive supplier,
13 2 importer, exporter, blender, terminal operator, nonterminal
13 3 storage facility, common carrier, or contract carrier,
13 4 pertaining to motor fuel or undyed special fuel withdrawn from
13 5 a terminal or nonterminal storage facility, or brought into
13 6 this state.

13 7 Sec. 23. Section 452A.62, subsection 2, unnumbered
13 8 paragraph 1, Code Supplement 2003, is amended to read as
13 9 follows:

13 10 To examine the records, books, papers, receipts, and
13 11 invoices of any distributor, supplier, restrictive supplier,
13 12 importer, blender, exporter, terminal operator, nonterminal
13 13 storage facility, licensed compressed natural gas or liquefied
13 14 petroleum gas dealer or user, or any other person who
13 15 possesses fuel upon which the tax has not been paid to
13 16 determine financial responsibility for the payment of the
13 17 taxes imposed by this chapter.

13 18 Sec. 24. Section 452A.85, Code Supplement 2003, is amended
13 19 by adding the following new subsection:

13 20 NEW SUBSECTION. 4. This section does not apply to an
13 21 increase in the tax rate of a specified fuel, except for
13 22 compressed natural gas, unless the increase in the tax rate of
13 23 that fuel is in excess of one-half cent per gallon.

13 24 Sec. 25. Section 453A.1, Code Supplement 2003, is amended
13 25 by adding the following new subsection:

13 26 NEW SUBSECTION. 5A. "Counterfeit cigarettes" means
13 27 cigarettes, packages of cigarettes, cartons of cigarettes, or
13 28 other containers of cigarettes with a label, trademark,
13 29 service mark, trade name, device, design, or word adopted or
13 30 used by a cigarette manufacturer to identify its product that
13 31 is false or used without authority of the cigarette
13 32 manufacturer.

13 33 Sec. 26. Section 453A.13, subsection 5, Code 2003, is
13 34 amended to read as follows:

13 35 5. APPLICATION == BOND. ~~Said permits~~ Permits shall be
14 1 issued only upon applications accompanied by the fee indicated
14 2 above, and by an adequate bond as provided in section 453A.14,

14 3 and upon forms furnished by the department upon written
14 4 request. The failure to furnish such forms shall be no excuse
14 5 for the failure to file the ~~same forms~~ unless absolute refusal
14 6 is shown. ~~Said~~ The forms shall set forth:

14 7 a. The manner under which ~~such the~~ distributor,
14 8 wholesaler, or retailer, transacts or intends to transact such
14 9 business as a distributor, wholesaler, or retailer.

14 10 b. The principal office, residence, and place of business,
14 11 ~~for which where~~ the permit is to apply.

14 12 c. If the applicant is not an individual, the principal
14 13 officers or members ~~thereof, not to exceed three,~~ and their
14 14 addresses.

14 15 d. ~~Such Any~~ other information as the director shall by
14 16 rules prescribe.

14 17 Sec. 27. Section 453A.15, Code 2003, is amended by adding
14 18 the following new subsection:

14 19 NEW SUBSECTION. 7. The director may require by rule that
14 20 reports required to be made under this division be filed by
14 21 electronic transmission.

14 22 Sec. 28. Section 453A.18, Code 2003, is amended to read as
14 23 follows:

14 24 453A.18 FORMS FOR RECORDS AND REPORTS.
14 25 The department shall furnish or make available in
14 26 electronic form, without charge, to holders of the various
14 27 permits, forms in sufficient quantities to enable permit
14 28 holders to make the reports required to be made under this
14 29 division. The permit holders shall furnish at their own
14 30 expense the books, records, and invoices, required to be used
14 31 and kept, but the books, records, and invoices shall be in
14 32 exact conformity to the forms prescribed for that purpose by
14 33 the director, and shall be kept and used in the manner
14 34 prescribed by the director. However, the director may, by
14 35 express order in certain cases, authorize permit holders to
15 1 keep their records in a manner and upon forms other than those
15 2 so prescribed. The authorization may be revoked at any time.

15 3 Sec. 29. Section 453A.25, subsection 3, Code 2003, is
15 4 amended to read as follows:

15 5 3. The director ~~is hereby authorized to appoint an~~
15 6 ~~assistant, whose sole duty it shall be~~ may designate employees
15 7 to administer and enforce the provisions of this chapter,
15 8 including the collection of all taxes provided for ~~herein in~~
15 9 this chapter. In such enforcement the director may request
15 10 aid from the attorney general, the special agents of the
15 11 state, any county attorney or any peace officer. The director
15 12 ~~is authorized to may~~ appoint such clerks and additional help
15 13 as may be needed to ~~carry out the provisions of~~ administer
15 14 this chapter.

15 15 Sec. 30. Section 453A.32, subsections 1, 4, and 5, Code
15 16 2003, are amended to read as follows:

15 17 1. All cigarettes on which taxes are imposed or required
15 18 to be imposed by this division, which are found in the
15 19 possession or custody, or within the control of any person,
15 20 for the purpose of being sold, distributed, or removed by the
15 21 person in violation of this division, and all cigarettes which
15 22 are removed ~~or are, stored, transported, deposited, or~~
15 23 ~~concealed in any place with intent to avoid payment of taxes~~
15 24 without the proper taxes paid, and any automobile, truck,
15 25 boat, conveyance, or other vehicle whatsoever, used in the
15 26 removal, storage, deposit, concealment, or transportation of
15 27 cigarettes for ~~such the purpose of avoiding the payment of the~~
15 28 proper tax, and all equipment or other tangible personal
15 29 property incident to and used for ~~such the purpose of avoiding~~
15 30 the payment of the proper tax, found in the place, building,
15 31 or vehicle where cigarettes are found, and all counterfeit
15 32 cigarettes, may be seized by the department, with or without
15 33 process and shall be from the time of the seizure forfeited to
15 34 the state of Iowa. A proceeding in the nature of a proceeding
15 35 in rem shall be filed in a court of competent jurisdiction in
16 1 the county of seizure to maintain the seizure and declare and
16 2 perfect the forfeiture. All cigarettes, counterfeit
16 3 cigarettes, vehicles, and property seized, remaining in the
16 4 possession or custody of the department, sheriff or other
16 5 officer for forfeiture or other disposition as provided by
16 6 law, are not subject to replevin.

16 7 4. In the event final judgment is rendered in the
16 8 forfeiture proceedings ~~aforsaid,~~ maintaining the seizure, and
16 9 declaring and perfecting the forfeiture of ~~said the~~ seized
16 10 property, the court shall order and decree the sale ~~thereof of~~
16 11 the seized property, other than the counterfeit cigarettes, to
16 12 the highest bidder, by the sheriff at public auction in the
16 13 county of seizure after notice is given in the manner provided

16 14 in the case of the sale of personal property under execution,
16 15 and the proceeds of such sale, less expense of seizure and
16 16 court costs, shall be paid into the state treasury.
16 17 Counterfeit cigarettes shall be destroyed or disposed of in a
16 18 manner determined by the director.

16 19 5. In the event the cigarettes seized ~~hereunder~~ and sought
16 20 to be sold upon forfeiture ~~shall be~~ are unstamped, the
16 21 cigarettes shall be sold by the director or the director's
16 22 designee to the highest bidder among the ~~licensed~~ distributors
16 23 holding a permit in this state after written notice has been
16 24 mailed to all such distributors. If there is no bidder, or in
16 25 the opinion of the director the quantity of cigarettes to be
16 26 sold is insufficient, or for any other reason such disposition
16 27 of the cigarettes is impractical, the cigarettes shall be
16 28 destroyed or disposed of in a manner as determined by the
16 29 director. The proceeds of ~~such~~ from the sales shall be paid
16 30 into the state treasury.

16 31 Sec. 31. Section 453A.36, subsection 6, Code 2003, is
16 32 amended to read as follows:

16 33 6. Any sales of cigarettes or tobacco products made
16 34 through a cigarette vending machine are subject to rules and
16 35 penalties relative to retail sales of cigarettes and tobacco
17 1 products provided for in this chapter. ~~No cigarettes shall~~
17 2 Cigarettes shall not be sold through any cigarette vending
17 3 machine unless the cigarettes have been properly stamped or
17 4 metered as provided by this division, and in case of violation
17 5 of this provision, the permit of the dealer authorizing retail
17 6 sales of cigarettes shall be ~~canceled~~ revoked. Payment of the
17 7 ~~license permit~~ fee as provided in section 453A.13 authorizes a
17 8 cigarette vendor to sell cigarettes or tobacco products
17 9 through vending machines. However, cigarettes or tobacco
17 10 products shall not be sold through a vending machine unless
17 11 the vending machine is located in a place where the retailer
17 12 ensures that no person younger than eighteen years of age is
17 13 present or permitted to enter at any time. This section does
17 14 not require a retail ~~licensee~~ permit holder to buy a cigarette
17 15 vendor's permit if the retail ~~licensee~~ permit holder is in
17 16 fact the owner of the cigarette vending machines and the
17 17 machines are operated in the location described in the retail
17 18 permit.

17 19 Sec. 32. Section 453A.36, Code 2003, is amended by adding
17 20 the following new subsection:

17 21 NEW SUBSECTION. 9. It is unlawful for a person to ship or
17 22 import into this state or to offer for sale, sell, distribute,
17 23 transport, or possess counterfeit cigarettes, knowing such
17 24 cigarettes are counterfeit cigarettes or having reasonable
17 25 cause to believe that such cigarettes are counterfeit
17 26 cigarettes.

17 27 Sec. 33. Section 453A.38, Code 2003, is amended to read as
17 28 follows:

17 29 453A.38 COUNTERFEITING AND PREVIOUSLY USED STAMPS.

17 30 Any person who shall print, engrave, make, issue, sell, or
17 31 circulate, or shall possess or have in the person's possession
17 32 with intent to use, sell, circulate, or pass, any counterfeit
17 33 stamp or previously used stamp, or who shall use, or consent
17 34 to the use of, any counterfeit stamp or previously used stamp
17 35 in connection with the sale, or offering for sale, of any
18 1 cigarettes, or who shall place, or cause to be placed, on any
18 2 individual package of cigarettes, any counterfeit stamp or
18 3 previously used stamp, ~~shall be~~ is guilty of an aggravated
18 4 misdemeanor. A person in violation of this section is also
18 5 subject to the penalty provided in section 453A.31, subsection
18 6 1.

18 7 Sec. 34. Section 453A.40, subsection 1, Code Supplement
18 8 2003, is amended to read as follows:

18 9 1. All persons required to ~~be licensed~~ hold a
18 10 distributor's permit under section 453A.13 ~~as distributors~~
18 11 having in their possession and held for resale on the
18 12 effective date of an increase in the tax rate cigarettes or
18 13 little cigars upon which the tax under section 453A.6 or
18 14 453A.43 has been paid, unused cigarette tax stamps which have
18 15 been paid for under section 453A.8, or unused metered imprints
18 16 which have been paid for under section 453A.12 shall be
18 17 subject to an inventory tax on the items as provided in this
18 18 section.

18 19 Sec. 35. Section 453A.45, subsection 5, unnumbered
18 20 paragraph 2, Code 2003, is amended to read as follows:

18 21 Such report shall be made on forms provided by the director
18 22 or the director may require by rule that the report be filed
18 23 by electronic transmission.

18 24 Sec. 36. Section 453A.46, Code 2003, is amended by adding

18 25 the following new subsection:

18 26 NEW SUBSECTION. 7. The director may require by rule that
18 27 reports be filed by electronic transmission.

18 28 Sec. 37. Section 518.18, subsection 3, paragraph b,
18 29 unnumbered paragraph 1, Code Supplement 2003, is amended to
18 30 read as follows:

18 31 In addition to the prepayment amount in paragraph "a", each
18 32 association shall remit on or before ~~June 30~~ August 15, on a
18 33 prepayment basis, an additional amount equal to the following
18 34 percent of the premium tax liability for the preceding
18 35 calendar year as follows:

19 1 Sec. 38. Section 518A.35, subsection 3, paragraph b,
19 2 unnumbered paragraph 1, Code Supplement 2003, is amended to
19 3 read as follows:

19 4 In addition to the prepayment amount in paragraph "a", each
19 5 association shall remit on or before ~~June 30~~ August 15, on a
19 6 prepayment basis, an additional amount equal to the following
19 7 percent of the premium tax liability for the preceding
19 8 calendar year as follows:

19 9 Sec. 39. EFFECTIVE DATE. The sections of this Act
19 10 amending sections 422.35, 432.1, 518.18, and 518A.35, being
19 11 deemed of immediate importance, take effect upon enactment.

19 12 Sec. 40. RETROACTIVE APPLICABILITY. Sections 1 and 2 of
19 13 this Act, amending Code section 422.9, apply retroactively to
19 14 January 1, 2004, for tax years beginning on or after that
19 15 date.

19 16 HF 2574

19 17 sc/es/25